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MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER 3, 2016/2017

UCN2612 –CONFLICT OF LAWS

(All Sections / Groups)

31 MAY 2017

READING TIME :09:00AM – 09:15AM
(15 MINUTES)

ANSWERING TIME: 09:15AM – 12:15PM
3 HOURS

INSTRUCTIONS TO STUDENT

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes **ONLY** in their question paper. Students then have the remaining **THREE HOURS** in which to answer the questions.
2. This Question paper consists of 3 pages with 6 Questions only.
3. Instructions to choosing the questions are stated with the Exam Questions.
4. Students are allowed to bring into Examination Hall **CLEAN** and **ORIGINAL** copy of:
Reciprocal Enforcement of Judgment Act 1958

Students are not allowed to lend or borrow statute(s) during the Examination.

5. Please write all your answers in the Answer Booklet provided.

PART A**QUESTION 1 (COMPULSORY QUESTION)**

Love-Around-The-World is a dot com company based in the Netherlands. It offers escort and companion services to its clients around the world. The manifesto of the company does not disclude the exchange of sexual services as part of its agents' services.

Alisa is a university student in Malacca who discovered this website last year. She has since registered as an agent in this company and has provided services requested via the website several times. However, the company has failed to pay her fees. She intends to initiate legal proceedings against the company here in the High Court of Malaya. Companies such as Love-Around-The-World are recognised by law to be valid in the Netherlands. Advise Alisa.

(Total: 25 Marks)

(CHOOSE ONE QUESTION: EITHER QUESTION 2 OR 3)**QUESTION 2**

Explain and compare the following cases with a discussion as to how the rules of characterisation are applied in determining the choice of law:

National Bank of Greece and Athens SA v. Metliss [1958] AC 509
Macmillan Inc. v. Bishopsgate Investment Trust plc (No. 3) [1996] WLR 387

(Total: 25 Marks)

QUESTION 3

Connecting factors connect persons, transactions and events to a country.

Explain the concept of connecting factors and how these factors are used with relevant authorities.

(Total: 25 Marks)

Continued...

PART B**QUESTION 4** (COMPULSORY QUESTION)

With reference to cases discuss the test of “closest connection at common law” and the factors that courts take into account to determine the choice of law in a situation where the parties have not made an express choice in relation to the contract as a whole, or to any part of it.

Discuss.

(Total: 25 Marks)

(CHOOSE ONE QUESTION: EITHER QUESTION 5 OR 6)**QUESTION 5**

The judgment creditor (“JC”) is a National from the Republic of Singapore. He had obtained a judgment in default against the judgment debtor (“JD”) a National from Malaysia on an issue of breach of contract. This judgment was obtained from the Republic of Singapore High Court Summons No S634 of 2013 (“the Singapore judgment”).

The JD applied to set aside the Singapore Judgment. The JD submitted that section 5(1)(a)(ii) of the Reciprocal Enforcement of Judgments Act 1958 of Malaysia should come into force as the JD did not receive any notice on the Singapore proceedings. The JD also stated that the Singapore Court did not have the jurisdiction to grant the Singapore judgment to the JD in Malaysia and that he also did not submit himself to the Singapore Court’s jurisdiction. The JD further submitted that the Singapore judgment was based on a gaming debt and should not be allowed to be enforced in Malaysia as it was a clear breach of public policy.

On the other hand, the JC submitted that the JD had expressly submitted to the jurisdiction of the court in Singapore pursuant to cl 13 of the credit agreement dated 24 September 2010 between them. The JC also argued that they were not suing on any gaming debt but was availing itself to the right of reciprocity of registering a validly obtained judgment in a Singapore Court and to be recognized and enforced in Malaysia by virtue of the Reciprocal Enforcement of Judgments Act 1958.

Discuss the effect of the registration of the “Singapore Judgment” and the extent of its recognition under the Reciprocal Enforcement of Judgments Act 1958 of Malaysia.

(Total: 25 Marks)

Continued...

QUESTION 6

Consider the possible consequences of a child being regarded as legitimate in one jurisdiction but not in another.

Discuss.

(Total: 25 Marks)

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